

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MARCH 30, 2005

SENATE BILL

No. 47

Introduced by Senator Scott

January 6, 2005

An act to amend Section 1206 of the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 47, as amended, Scott. Clinics.

Existing law regulates the licensure of clinics, as defined, by the State Department of Health Services. Under existing law, specified types of clinics are exempted from these licensing provisions, including, until January 1, 2008, clinics that are nonprofit corporations and satisfy requirements regarding medical research and the receipt of charitable contributions and bequests.

This bill would delete the January 1, 2008, date for termination of the exemption from the licensure requirements for the nonprofit clinics described above, *would require those clinics to have satisfied the requirements regarding medical research and receipt of charitable contributions and bequests on or before January 1, 2005*, and would require each of those clinics to submit to the Legislature a related report by January 1, 2007, and every 5 years thereafter.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1206 of the Health and Safety Code is
2 amended to read:

1 1206. This chapter does not apply to the following:

2 (a) Except with respect to the option provided with regard to
3 surgical clinics in paragraph (1) of subdivision (b) of Section
4 1204 and, further, with respect to specialty clinics specified in
5 paragraph (2) of subdivision (b) of Section 1204, any place or
6 establishment owned or leased and operated as a clinic or office
7 by one or more licensed health care practitioners and used as an
8 office for the practice of their profession, within the scope of
9 their license, regardless of the name used publicly to identify the
10 place or establishment.

11 (b) Any clinic directly conducted, maintained, or operated by
12 the United States or by any of its departments, officers, or
13 agencies, and any primary care clinic specified in subdivision (a)
14 of Section 1204 that is directly conducted, maintained, or
15 operated by this state or by any of its political subdivisions or
16 districts, or by any city. Nothing in this subdivision precludes the
17 state department from adopting regulations that utilize clinic
18 licensing standards as eligibility criteria for participation in
19 programs funded wholly or partially under Title XVIII or XIX of
20 the federal Social Security Act.

21 (c) Any clinic conducted, maintained, or operated by a
22 federally recognized Indian tribe or tribal organization, as
23 defined in Section 450 or 1601 of Title 25 of the United States
24 Code, that is located on land recognized as tribal land by the
25 federal government.

26 (d) Clinics conducted, operated, or maintained as outpatient
27 departments of hospitals.

28 (e) Any facility licensed as a health facility under Chapter 2
29 (commencing with Section 1250).

30 (f) Any freestanding clinical or pathological laboratory
31 licensed under Chapter 3 (commencing with Section 1200) of
32 Division 2 of the Business and Professions Code.

33 (g) A clinic operated by, or affiliated with, any institution of
34 learning that teaches a recognized healing art and is approved by
35 the state board or commission vested with responsibility for
36 regulation of the practice of that healing art.

37 (h) A clinic that is operated by a primary care community or
38 free clinic and that is operated on separate premises from the
39 licensed clinic and is only open for limited services of no more
40 than 20 hours a week. An intermittent clinic as described in this

subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and

1 treatment of accidental injuries to, and the care of the health of,
2 the employees comprising the group.

3 (o) A community mental health center, as defined in Section
4 5601.5 of the Welfare and Institutions Code.

5 (p) (1) A clinic operated by a nonprofit corporation exempt
6 from federal income taxation under paragraph (3) of subsection
7 (c) of Section 501 of the Internal Revenue Code of 1954, as
8 amended, or a statutory successor thereof, as an entity organized
9 and operated exclusively for scientific and charitable purposes
10 and that ~~satisfies~~ *satisfied* all of the following requirements *on or*
11 *before January 1, 2005*:

12 (A) Commenced conducting medical research on or before
13 January 1, 1982, and continues to conduct medical research.

14 (B) Conducted research in, among other areas, prostatic
15 cancer, cardiovascular disease, electronic neural prosthetic
16 devices, biological effects and medical uses of lasers, and human
17 magnetic resonance imaging and spectroscopy.

18 (C) Sponsored publication of at least 200 medical research
19 articles in peer-reviewed publications.

20 (D) Received grants and contracts from the National Institutes
21 of Health.

22 (E) Held and licensed patents on medical technology.

23 (F) Received charitable contributions and bequests totaling at
24 least five million dollars (\$5,000,000).

25 (G) Provides health care services to patients only:

26 (i) In conjunction with research being conducted on
27 procedures or applications not approved or only partially
28 approved for payment (I) under the Medicare program pursuant
29 to Section 1359y(a)(1)(A) of Title 42 of the United States Code,
30 or (II) by a health care service plan registered under Chapter 2.2
31 (commencing with Section 1340), or a disability insurer
32 regulated under Chapter 1 (commencing with Section 10110) of
33 Part 2 of Division 2 of the Insurance Code; provided that services
34 may be provided by the clinic for an additional period of up to
35 three years following the approvals, but only to the extent
36 necessary to maintain clinical expertise in the procedure or
37 application for purposes of actively providing training in the
38 procedure or application for physicians and surgeons unrelated to
39 the clinic.

1 (ii) Through physicians and surgeons who, in the aggregate,
2 devote no more than 30 percent of their professional time for the
3 entity operating the clinic, on an annual basis, to direct patient
4 care activities for which charges for professional services are
5 paid.

6 (H) Makes available to the public the general results of its
7 research activities on at least an annual basis, subject to good
8 faith protection of proprietary rights in its intellectual property.

9 (I) Is a freestanding clinic, whose operations under this
10 subdivision are not conducted in conjunction with any affiliated
11 or associated health clinic or facility defined under this division,
12 except a clinic exempt from licensure under subdivision (m). For
13 purposes of this subparagraph, a freestanding clinic is defined as
14 “affiliated” only if it directly, or indirectly through one or more
15 intermediaries, controls, or is controlled by, or is under common
16 control with, a clinic or health facility defined under this
17 division, except a clinic exempt from licensure under subdivision
18 (m). For purposes of this subparagraph, a freestanding clinic is
19 defined as “associated” only if more than 20 percent of the
20 directors or trustees of the clinic are also the directors or trustees
21 of any individual clinic or health facility defined under this
22 division, except a clinic exempt from licensure under subdivision
23 (m). Any activity by a clinic under this subdivision in connection
24 with an affiliated or associated entity shall fully comply with the
25 requirements of this subdivision. This subparagraph shall not
26 apply to agreements between a clinic and any entity for purposes
27 of coordinating medical research.

28 (2) By January 1, 2007, and every five years thereafter, the
29 Legislature shall receive a report from each clinic meeting the
30 criteria of this subdivision and any other interested party
31 concerning the operation of the clinic’s activities. The report
32 shall include, but not be limited to, an evaluation of how the
33 clinic impacted competition in the relevant health care market,
34 and a detailed description of the clinic’s research results and the
35 level of acceptance by the payer community of the procedures
36 performed at the clinic. The report shall also include a
37 description of procedures performed both in clinics governed by
38 this subdivision and those performed in other settings. The cost
39 of preparing the reports shall be borne by the clinics that are

1 required to submit them to the Legislature pursuant to this
2 paragraph.

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